IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH,

AT HYDERABAD

HON'BLE SRI JUSTICE V.V.S. RAO

W.P. No. 6135 OF 2001

Date: 11.08.2005

BETWEEN:

T. Satyavathi

…. PETITIONER

Vs.

1. Government of A.P. Industries and Commerce (M-III)

Department, rep. by its Deputy Secretary, Secretariat,

Hyderabad and others.

…. RESPONDENTS

ORDER:

The petitioner obtained mining lease in an extent of Acs.30.00 of land in S.No.161 of Shikaruganji village, Dattirajeru Mandal, Vizainagaram District. The lease was granted by the first respondent through its order in G.O.Ms.No.546, dated 17.10.2000 for a period of 20 years. After completing all the formalities, the petitioner entered into an agreement with the second respondent as per the A.P. Mining Mineral Concession Rules, 1966 (for short 'the Rules'). According to the petitioner the entire extent of land in S.No.161 admeasuring to an extent of Acs.2987.00 is registered in Revenue records as hill poramboke (Kondaporamboke). It is the allegation of the petitioner that when she went to the mining land along with the workers for commencing preliminary work, the fifth respondent, namely, Forest Range Officer, Parvathipuram, Vizainagaram District prevented her from proceeding with the work without serving any notice and without passing any orders. The petitioner, therefore, invoked Article 226 of the Constitution of India seeking a direction to the fifth respondent not to interfere with the Quartz mining operation of the petitioner in S.No.161 of Shikaruganji village.

In this writ petition, the Department of Industries and Commerce is arrayed as

first respondent, the Department of Revenue is represented by respondent No.3, i.e. the District Collector, Vizainagaram, and the Revenue Divisional Officer, Vizainagaram is respondent No.4. The Department of Mines and Geology represented by the Assistant Director of Mines and Geology is the second respondent whereas the Department of Forest represented by Forest Range Officer is the fifth respondent. The allegation that the petitioner was not served with any notice or any order is not denied. It is however stated that the Government of A.P. issued notification vide G.O.Ms.No.1816 Food and Agriculture (For.III) Department, dated 5.9.1967 under Section 15 of the A.P. Forest Act 1967 (for short the 'Forest Act') declaring the entire land in S.No.161 of Shikaruganji village as Reserved Forest land and therefore no mining activity can be carried out in the land without prior permission by the Central Government under the provisions of Forest Conservation Act, 1980 (for short 'the Central Act'). It is further revealed that the Revenue officials gave No Objection for grant of lease to the petitioner without consulting the Forest Department and therefore the lease granted by the Government of Andhra Pradesh in Mines and Geology Department is of no avail.

The Assistant Director of Mines and Geology, second respondent herein filed separate counter affidavit assailing that the land in S.No.161 of Shikaruganji village is Konda poramboke land, and therefore there is no prohibition for granting mining lease for Quartz to the petitioner. It is also stated that before issuing/granting lease in favour of the petitioner, the department has followed the detailed procedure.

When the matter came up before this Court on 20.8.2001, having noticed the inconsistency in the counter affidavit filed on behalf of the Mines Department, and the counter filed on behalf of the Forest Department, this Court has passed the following order.

> In this case a peculiar situation has arisen. The lease deed was executed in favour of the petitioner for Quartz Mining over an extent of Ac.30.00 in S.No.161 of Shikaruganji village, Dathirajeru Mandal, Vizainagaram District by the Government in G.O.Ms.No.546 dated 17.10.2000. But the Forest Department has made objection on the ground that it is a Reserved Forest under the provisions of the Forest Conservation Act and the lease without prior permission of the Central Government is invalid. While it is the case of the Revenue Department that it is not a Reserved Forest area, but it is a Government Poramboke land and therefore, the area does not fall within the Reserved Forest.
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> The clash of interest between the Departments has to be avoided for proper coordination and good governance. In such a situation, the

> Supreme Court has directed the Heads of the Departments to discuss mutually, and resolve the issue without seeking the verdict of Court on these issues.
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> Under these circumstances, this court feels that it is necessary that the Secretaries of Forest Department, Revenue Department and Industries Department should have a joint meeting between them and matters be settled mutually. Therefore, pending further orders, the following directions are issued:
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> - The meeting shall be convened between the secretaries of Forest Department, Revenue Department and Industries Department to discuss whether the land in question falls within the Reserved Forest or it is a Government Poramboke land and come to a proper decision on this aspect.
> - It is also open for them to get the land surveyed with the assistance of Survey Department, if found necessary.
> - Decision so taken by the Committee shall be reported to this Court within a period of six weeks from the date of receipt of a copy of this order.
> - The District Collector, Vizianagaram shall function as Coordinating Authority for the above purpose.

In obedience to the above order, the District Collector, the third respondent herein instructed the fourth respondent and Divisional Forest Officer, Vizainagaram to conduct joint inspection on disputed mining lease land in S.No.161 of Shikaruganji village. On 14.10.2001 the respondents 2 and 4 along with Divisional Forest Officer, Vizaihagaram and Assistant Director of Survey and Land Records, Vizainagaram conducted Joint Inspection with reference to various records and Government notifications. The Joint Inspection teem found that the land in S.No.161 is declared as Reserve Forest (compartment No.172) vide notification in G.O.Ms.No.1816, dated 5.9.1967 under Section 15 of the Forest Act; and that the mining lease land of Acs.30.00 is situated in the North East edges of the hill abutting the village boundary of Akulakatta village of Badangi Mandal. The joint inspection team also opined that the lease granted in favour of the petitioner should be cancelled, as no mining operations can be conducted in the leased land.

The petitioner does not dispute now the joint inspection report. It is needless to point out that when once the land is declared as forestland, without there being prior permission from the Central Government under Section 2 of the Central Act, the forestland cannot be converted into a non-forestland for any other purposes.

Necessary action has to be taken by the respondents 1 and 2 or other competent authority of Mines and Geology Department for cancellation of lease granted to the petitioner in G.O.Ms.No.546 dated 17.10.2000.

As per Section 20(3) of the Forest Act whenever any action is taken by the Forest officials named therein for contravention of the provisions of the Forest Act, the alleged violator has to be given a notice and opportunity. This was not done by the fifth respondent. This Court is of the considered opinion that the means would not justify the end. In curbing illegality, the Government officials cannot resort to illegal actions. The Forest Range Officer, fifth respondent did not even issue a Memo or pass orders before preventing the petitioner nor did he take the issue with the Revenue officials or the officials of Mines and Geology. The Forest Range Officer high-handedly stopped the mining lease. For this purpose this Court is of the considered opinion that fifth respondent should be burdened with exemplary costs.

Therefore, the Writ Petition is disposed of in the following manner.

The respondents 1 and 2 shall immediately initiate steps for cancellation of laese granted to the petitioner in accordance with the A.P. Mining and Mineral Concession Rules. This exercise may be completed within a period of eight weeks from the date of receipt a copy of this order. The Writ petition is disposed of with costs as against the fifth respondent quantified at Rs.2000/- (Rupees two thousand only).

V.V.S. RAO, J.

11th August, 2005

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